

Virginia Interagency ADR Council Pilot Presentations

ADR Pilot Program

Department of Charitable Gaming

June 29, 2005

Pilot Overview

■ Goals

- To develop a specialized informal process as an alternative to the Administrative Process Act, to resolve controversies involving licensing decisions, as well as and statutory and/or regulatory violations, in an expeditious manner to the mutual satisfaction of all parties, and in a regulatory environment that is also customer service oriented for the Department's constituents. To increase the efficiency of the process, and to reduce the Department's costs associated with more formal processes.

■ Participants

- Applicable Department staff and our constituents that include charitable organizations that conduct charitable gaming and licensed charitable gaming suppliers.

Steps Taken

- Realization of the need to more efficiently address regulatory issues.
- Designated ADR Coordinator and ADR Contact person.
- Provided instruction to meet the educational needs of all Department stakeholders.
- Adopted written policies and procedures.
- Established criteria to determine whether a controversy would be appropriate for ADR after a review and analysis of policy and law.

Supporting Conditions

■ Supporting Conditions & Impact

- Stakeholders are empowered to control their fate by taking an active role in the resolution of controversies at hand.
- Stakeholders are asked to actively participate in and provide information in an informal environment that expedites resolution.
- Creates a non-adversarial atmosphere. Stakeholders are more inclined to work towards a common goal.
- Less staff time involved in the resolution using ADR than in utilizing the APA.
- ADR avoids the time involved in the preparation of notices, reports, transcripts, and closing documents.
- Neither party waives any rights under the APA, and there is no risk to stakeholders.
- Effectiveness in terms of outcome – The Department has realized success in 90% of its ADR candidates to date.

Challenges

■ Challenges & Solutions

- The Department needs to be consistent in applying ADR strategies.
- Careful review and analysis should be given to ensure proper cases for ADR...Not all disputes are appropriate for ADR.
- Should a previous ADR attempt not be successful, what action should the Department take?
- How does an unsuccessful ADR attempt factor into future Department decisions?
- The Department must weigh the potential benefit of ADR for each particular stakeholder by conducting a review and analysis of the Department's records, and the organization's history and prior performance.
- The Department must be careful to make certain that stakeholders are sincere participants in ADR versus stalling the inevitable formal process.

Implementing the New ADR Process

■ How It Works

- At the discretion of the Director, a constituent organization may be afforded an opportunity to participate in a face-to-face meeting to discuss the issues at hand.
- All stakeholders will establish an agreed upon meeting date that will include the various Department disciplines, the organization's leadership, and if applicable, a third-party mediator.
- A letter is generated to the constituent outlining the controversies at hand and the Department's process in utilizing ADR and confirming the agreed upon date and location.
- The Director will conduct the meeting, and each party will be afforded an opportunity to present their case and introduce any documents in support of their position. The controversies will be addressed in detail with the goal of reaching an amicable agreement.
- Follow up by the Department to ensure that the stakeholder complies with the agreed upon resolution is crucial.

Implementing the New ADR Process

■ Roll Out to Stakeholders

- The decision to utilize this process is made on a case-by-case basis after:
 - Thorough discussions with and recommendations from the applicable Department disciplines.
 - Thorough review of the statutory and regulatory controversies.
 - An analysis of the benefit of (1) the ADR process pertaining to the individual constituent, (2) the cost benefit to the Department, and (3) the potential for settlement.

Results Produced

- **Better?** Yes, effectively resolve disputes and there is a notable reduction in post-conflict negative consequences.
- **Faster?** Yes, as controversies can be resolved within 30 days or less.
- **Cheaper?** Yes, the Department has been able to reduce the expenses incurred in connection with the resolution of controversies, including reduction of staff time and other Department resources.

Lessons Learned

- Upon entering into the Pilot Program, the Department realized that we already employed many ADR strategies.
- By participating in the Pilot Program, the Department realized the need to develop and implement written procedures that are now in place.
- ADR has clearly helped the Department meet its goal of being more customer service oriented, while still fulfilling our statutory and regulatory responsibilities.
- The Department has learned that our stakeholders would much rather utilize this informal process.